

SERVED: March 1, 1999

NTSB Order No. EA-4748

UNITED STATES OF AMERICA  
**NATIONAL TRANSPORTATION SAFETY BOARD**  
WASHINGTON, D.C.

Issued under delegated authority (49 C.F.R. 800.24)  
on the 1st day of March, 1999

_____	)	
JANE F. GARVEY,	)	
Administrator,	)	
Federal Aviation Administration,	)	
	)	
Complainant,	)	
	)	Docket SE-15469
v.	)	
	)	
HOWARD J. BURROWS,	)	
	)	
Respondent.	)	
_____	)	

**ORDER DISMISSING APPEAL**

On January 20, 1999, Administrative Law Judge Patrick G. Geraghty held an evidentiary hearing in this proceeding at which the respondent did not appear.<sup>1</sup> At the conclusion of the Administrator's case, the law judge affirmed the emergency revocation of respondent's private pilot certificate (No. 570360248) on charges that he had violated sections 61.3(a) and (c), 61.56(c), 67.403(a)(4), 91.409(a)(1), and 91.13(a) of the Federal Aviation Regulations, 14 CFR Parts 61, 67, and 91. In a

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<sup>1</sup>Although the noticed hearing date and place appear not to have been convenient for the respondent or to his liking for various reasons he specified in a letter dated January 15, 1999, that correspondence was not received by the law judge before the hearing. Apart from the fact that respondent should have known that his letter might not reach the law judge in time for it to be considered before the hearing convened, he did not call the law judge to advise him that he would not be attending. Moreover, he did not undertake, within the two-day period for filing an appeal after a decision by a law judge at an emergency hearing, to ascertain whether a hearing had been held in his absence and its result.

document dated February 12, 1999, respondent, apparently after receiving the copy of the hearing transcript the Board mailed to him, sets forth his disagreements with some of the evidence adduced at the hearing. The Administrator has moved to dismiss this document, which presumably reflects respondent's desire to appeal from the law judge's affirmation of the Administrator's revocation order, because it was not, as required by Section 821.57(a) of the Board's Rules of Practice, filed within two days after the law judge rendered his decision.<sup>2</sup> We will grant the motion and dismiss the late appeal.

In the absence of good cause to excuse a respondent's failure to file a timely notice of appeal or appeal brief, an appeal must be dismissed. See, e.g., Administrator v. Mace, 7 NTSB 478 (1990)(emergency revocation proceeding), citing Administrator v. Hooper, 6 NTSB 559 (1988), aff'd 948 F.2d 781 (D.C. Cir. 1991). While respondent's February 12 submission references the reasons why he did not attend the hearing, it does not identify any justification for his failure thereafter to inquire as to whether the law judge had conducted a hearing without his participation and had reached a decision affecting his certificate that he might want to appeal to the full Board. See Royal American Airways, Inc., 5 NTSB 1090 (1986).

**ACCORDINGLY, IT IS ORDERED THAT:**

1. The Administrator's motion to dismiss is granted; and
2. The respondent's appeal is dismissed.

Daniel D. Campbell  
General Counsel

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<sup>2</sup>A copy of the Board's rules of practice was provided to the respondent when he originally appealed from the Administrator's emergency order of revocation.